

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSHUA D. LAMBERT,

Plaintiff,

v.

XLORMARA HEURTAS, ET AL.,

Defendants.

CASE NO. 19-5980 RJB - JRC

ORDER ADOPTING REPORT AND
RECOMMENDATION

THIS MATTER comes before the Court on the Report and Recommendation of U.S. Magistrate Judge J. Richard Creatura. Dkt. 79. The Court has considered the Report and Recommendation (Dkt. 79), the Plaintiff's objections (Dkt. 82) and the remaining file.

The Report and Recommendation (Dkt. 79) should be adopted and the case re-referred to Judge Creatura for further proceedings. The Plaintiff's objections do not provide grounds to decline to adopt the Report and Recommendation. The Plaintiff summarily states that he "did state a claim for free speech" and that "did state a claim for supervisory liability against Natasha


House,” (Dkt. 82) but he fails to provide any basis to support his assertions. The Plaintiff maintains that his claims and the record have been mischaracterized (Dkt. 82), but does not explain how. His objection that a decision should be made on the motion to dismiss his state law claims, before he has a chance to amend his complaint, is without merit as is his assertion that all the pleadings are closed so a ruling on his Fed. R. Civ. P 12(c) motion is appropriate. The Report and Recommendation should be adopted, the Washington State Hospital defendants’ motion to dismiss should be granted, in part, and denied, in part; Plaintiff’s First Amendment claim should be dismissed with prejudice and without leave to amend. Plaintiff’s supervisory liability claim against defendant House should be dismissed but with leave to amend. The Court should decline to rule on the sufficiency of plaintiff’s state law claims at this time. Further, the Plaintiff’s Fed. R. Civ. P. 12(c) motion for a judgment on the pleadings should be denied without prejudice as moot and as premature.

IT IS ORDERED THAT:

- The Report and Recommendation of U.S. Magistrate Judge J. Richard Creatura (Dkt. 79) **IS ADOPTED**;
 - (a) The Washington State Hospital defendants’ motion to dismiss is granted, in part, and denied, in part; Plaintiff’s First Amendment claim is dismissed with prejudice and without leave to amend. Plaintiff’s supervisory liability claim against defendant House is dismissed but with leave to amend. The Court declines to rule on the sufficiency of plaintiff’s state law claims at this time.
 - (b) Plaintiff’s motion for judgment on the pleadings is denied without prejudice as moot and premature.
- The case **IS RE-REFERRED** to Judge Creatura for further proceedings.

1 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
2 to any party appearing *pro se* at said party's last known address.

3 Dated this 2nd day of July, 2020.

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5 ROBERT J. BRYAN
6 United States District Judge
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